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January 7, 2019

VIA ECF ONLY

Hon. Loretta A. Preska
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Benjamin v. Brann*, No. 75-CV-3073 (LAP)

Your Honor:

On behalf of all parties, I write in response to the Court's order dated December 18, 2018, which directed counsel to "confer and inform the Court by letter of any outstanding motions." (ECF No. 667.)

Two closely related motions are pending: plaintiffs' motion for enforcement of the Court's prior order directing defendants to "provide adequate ventilation and cooling in punitive segregation areas, including, but not limited to, CPSU at OBCC and MHAV II [sic: refers to MHAUII] at GRVC. . .," and defendants' cross-motion to terminate that order. The relevant documents can be found at ECF Nos. 578-587, 591-593, 596, 605-607, 609, 611, 614, 646-650, and 653-654.

In June 2013, plaintiffs moved for enforcement of the Court's prior order regarding cooling and ventilation in the punitive segregation units. Specifically, plaintiffs proposed that the Court enter the following order:

Within 60 days from the date hereof, DOC will present to OCC, the plaintiffs, and this Court, a plan, which, while taking the needs for security into consideration, will provide adequate cooling in punitive segregation areas, including, but not limited to, CPSU at OBCC and MHAUII at GRVC.

(See Memorandum of Law in Support of Plaintiffs' Motion for Enforcement, ECF No. 579.) Defendants opposed, an evidentiary hearing was held in 2014 before the late

January 7, 2019

Page 2

Judge Harold Baer, Jr., and post-trial briefs were submitted. The case was transferred to Your Honor's docket when Judge Baer died the week after the hearing.

After settlement negotiations failed, defendants submitted several letters describing changes made to the DOC's punitive segregation practices. By letter dated June 22, 2017, defendants argued that the heat order at issue in plaintiffs' enforcement motion should be terminated. (Letter from Chlarens Orsland and Omar H. Tuffaha, ECF No. 649.) Plaintiffs oppose termination. On August 16, 2018, the Court construed defendants' submissions as "DOC's motion to end the Heat Orders issued by the late Judge Harold Baer, Jr., and close the case." (ECF No. 650.) The parties then submitted supplemental briefs. (ECF Nos. 653-54.)

There remain in effect court orders addressing fire safety, ventilation, sanitation, and lighting, but there are presently no pending motions on these topics.

We thank the Court for its attention to these matters.

Respectfully submitted,

/s/

Robert M. Quackenbush

cc: All counsel (*via ECF*)